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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 DAVID MICHAEL NAVARRO,

12 Defendant.
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CASE NO. CR13-5525 BHS

ORDER DENYING EX PARTE
STATUS

14 This matter comes before the Court on the Government's ex parte application
15 (Dkt. 22).

16 On September 20, 2013, the Government filed an ex parte application under the
17 All Writs Act. *Id.* On October 15, 2013, the Court held a hearing and set a briefing
18 schedule on the issue of whether the application should proceed ex parte. Dkt. 30. On
19 October 17, 2013, the Government filed a memorandum in support of ex parte status.
20 Dkt. 33. On October 23, 2013, Defendant filed a memorandum in opposition. Dkt. 34.
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1 “[I]n our system, adversary procedures are the general rule and ex parte
2 examinations are disfavored.” *United States v. Kenney*, 911 F.2d 315, 321 (9th Cir.
3 1990).

4 In this case, the Government has failed to provide a sufficient reason for the Court
5 to consider the application ex parte. The factually unsupported argument that Defendant
6 could destroy evidence contained on a phone currently in the Government’s possession is
7 not persuasive; this is not an ex parte request for a search warrant. Therefore, the
8 Government shall either unseal the application (Dkts. 22 & 23) or provide Defendant
9 with a copy. A response, if any, shall be filed no later than November 1, 2013. A reply,
10 if any, shall be filed no later than November 6, 2013.

11 Dated this 25th day of October, 2013.

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15 BENJAMIN H. SETTLE
16 United States District Judge
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